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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/591,769

06/12/2000

Alain T. Rappaport

MS320715.02/MSFTP1909USA

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07/01/2008

AMIN. TUROCY & CALVIN, LLP

24TH FLOOR, NATIONAL CITY CENTER

1900 EAST NINTH STREET

CLEVELAND, OH 44114

EXAMINER

PORTER, RACHEL L

ART UNIT

PAPER NUMBER

3626

NOTIFICATION DATE

DELIVERY MODE

07/01/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket1@thepatentattorneys.com

hholmes@thepatentattorneys.com

lpasterchek@thepatentattorneys.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/591,769	<b>Applicant(s)</b> RAPPAPORT, ALAIN T.	
	<b>Examiner</b> RACHEL L. PORTER	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-20, 38-49 and 57-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-20, 38-49 and 57-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the amendment received 5/5/08 Claims 1-7,10-20, 38-49, and 57-60 are pending.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 58 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 58 recites "the method of claim 20 wherein the contextual information includes..." However, claim 20 has been canceled, and the dependency chain and current limitations of claim 58 are unclear.

Moreover, there is insufficient antecedent basis for the limitation "the contextual information " in the claim.

For the purpose of applying art, the examiner will interpret claim 58 as being directly dependent from claim 1.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1,5,10,17-19 ,38-40,42,43,46,48-49, and 58-60, are rejected under 35 U.S.C. 102(e) as being anticipated by Spackman (US Patent No.6,438,533).

[claim 1] Spackman discloses a method comprising:

- receiving information about a patient utilizing a computer, the information about the patient including diagnosis information based upon a diagnosis of the patient performed by a health care provider; (col. 4, lines 2-6; col. 10: 27-35)
- performing a query function utilizing the computer to retrieve from a database a list of data sources upon receiving the information, the query function based upon the received information about the patients generates and automatically executes a set of queries containing query criteria including contextual information applicable to the received diagnosis information based on the received information about the patient, (col. 4, lines 27-33; col. 7, lines 35-41) the set of queries being selected from a set of existing queries that correspond to the received information about the patient to retrieve from the database the list of data sources matching the query criteria; and (col. 7, lines 41-67; col. 8, lines 36-48 )

- generating at least one document utilizing the computer, the at least one document containing the list of data sources retrieved from the database. ( col. 8, lines 36-48 )

[claim 5] Spackman teaches a method wherein the information about the patient further comprises information selected from the group consisting of the patient's personal information, prescription information, laboratory information, procedures information, materials and supplies information and injection information. (Spackman: col. 9, lines 1-20)

[claim 10] Spackman discloses the method of claim 1 wherein generating the set of queries comprises: constructing a set of queries based on the information received. (col. 10, lines 11-34)

[claim 17] Spackman discloses the method of claim 1 further comprising: allowing the patient to access the at least one document via a computer network. (col. 5, lines 57-67)

[claim 18] Spackman discloses the method of claim 17 further comprising: allowing the patient to provide feedback or comments with respect to the information contained in the at least one document. (col. 10, lines 53-63)

[claim 19] Spackman discloses the method of claim 18 wherein the computer network is selected from the group consisting of a local area network, a wide area network, and the Internet. (col. 5, lines 57-67)

[claim 58] Spackman discloses a method wherein the queries may include contextual information relating to at least one of a weight, an age and a sex. (col. 9, lines 47-67—  
See 112, 2<sup>nd</sup> paragraph rejection)

[claim 59] Spackman discloses the method of claim 1 wherein the at least one document includes a list of data sources associated with a parent diagnosis code if a list of data sources associated with a child diagnosis code cannot be identified, wherein the parent diagnosis code is included in a first classification in a hierarchy of diagnosis code classifications that includes a second classification that includes the diagnosis code.  
(col. 8, lines 60-col. 9, line 50)

[claim 38] Spackman discloses a system comprising:

- a first database that stores multiple lists of content links, each list corresponding to a specific code; and (col. 6, lines 1-15; 65-67))
- a first server that receives information about a patient from at least one source, the information about the patient including at least one code (col. 5, lines 51-67), the first server retrieves from the first database at least one list of content links based upon the at least one code and generates at least one document containing the at least one list of content links retrieved from the first database, (col. 6, lines 18-61) wherein the first server selects a set of existing queries that

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correspond to information about a medical procedure to retrieve the at least one list of content links; (col. 8, lines 36-48)

- the set of queries are generated based on one or more concepts identified from a definition or a conceptual equivalent of the definition of the at least one code and one or more contexts that characterize one or more selected concepts associated with the code. (col. 7, lines 41-67; col. 8, lines 36-48 )

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[claim 39] Spackman discloses the system of claim 38 wherein the at least one document generated is stored in a second database. (col. 7, lines 49-56; col. 8, lines 44-48)

[claim 40] Spackman discloses the system of claim 38 wherein the at least one document is made accessible to the patient via a computer network. (col. 5, lines 51-67)

[claim 42] Spackman discloses the system of claim 38, wherein the first server includes a machine-readable medium comprising instructions which, when executed by a machine, cause the machine to perform operations, the instructions to comprise:

- logic to receive the information about the patient from the at least one source; (col. 4, lines 2-6; col. 10: 27-35)

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- logic to generate a set of queries based upon the at least one definition that corresponds to the at least one code received; and (col. 4, lines 27-33; col. 7, lines 35-41)
- logic to execute the set of queries to retrieve from the first database the at least one list of content links that corresponds to the set of queries. (col. 7, lines 41-67; col. 8, lines 36-48 )

[claim 43] Spackman discloses the system of claim 38 wherein the at least one list of content links that is stored in the first database is identified using a set of queries generated from the at least one definition that is associated with the at least one code. (col. 6, lines 65-67)

[claim 46] The limitations of claim 46 are addressed by the rejections of claims 38 and 42.

[claim 48] Spackman discloses the limitations of claim 46 wherein the diagnosis information comprises at least one description describing the patient's conditions or problems based upon the diagnosis performed by the health care provider. (col. 9, line 46-67; col. 10, lines 21-34)

[claim 49] Spackman discloses the limitations of claim 48 wherein performing the query function comprises: generating a set of queries containing query criteria based on



the received information about the patient; and executing the set of queries to retrieve from the database the list of data sources matching the query criteria. (col. 10, lines 46-67)

[claim 60] The limitations of claim 60 are addressed by the rejection of claim 1.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-4, 11-16, 47, 57, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spackman (US Patent No. 6,263,330) in view of Evans (US Patent No. 5,924,074).

[claims 2-4] Spackman teaches a method that utilizes patient records and disease information to retrieve store and/or retrieve information relating to a patient's condition (col. 8, lines 66-col. 9, lines 20), but does not expressly disclose the use of diagnostic codes, such as ICD codes. Evans teaches a data retrieval system/method wherein receiving data in the patient's records comprises accessing procedure codes or diagnosis codes for procedures/diagnoses that the patient has undergone/received and wherein the codes are CPT or ICD codes. (column 9, lines 4-7, figure 20; column 11,

lines 14-27). At the time of the Applicant's invention, it would have been obvious to one of ordinary in the art to combine the teachings of Spackman with the teachings of Evans to specifically include diagnostic codes (e.g. ICD codes) among the patient information. One would have been motivated to include this feature to facilitate a treating healthcare provider's access to a wide range of critical medical data relating to his/her patients.

[claims 11-16]

Spackman teaches a method that utilizes patient records and disease information to retrieve store and/or retrieve information relating to a patient's condition (col. 8, lines 66-col. 9, lines 20), but does not expressly disclose the use of diagnostic codes, such as ICD codes. Evans teaches a data retrieval system/method wherein receiving data in the patient's records comprises accessing procedure codes or diagnosis codes for procedures/diagnoses that the patient has undergone/received and wherein the codes are CPT or ICD codes. (column 9, lines 4-7, figure 20; column 11, lines 14-27). At the time of the Applicant's invention, it would have been obvious to one of ordinary in the art to combine the teachings of Spackman with the teachings of Evans to specifically include diagnostic codes (e.g. ICD codes) among the patient information. One would have been motivated to include this feature to facilitate a treating healthcare provider's access to a wide range of critical medical data relating to his/her patients.

[claim 47] The limitations of claim 47 are addressed by the rejection of claims 11-16 and 46, and incorporated herein.

[claim 57] Spackman teaches the method of claim 13 wherein the diagnosis description describes an agent that is causally related to the diagnosis information. (col. 6, lines 51-60; col. 9, lines 47-67)

8. Claims 6-7, 41, and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spackman in view of Kirk et al (US 5,768,578)

[claims 6-7] Spackman discloses the method of claim 1 as explained in the rejection of claim 1, but does not expressly disclose that the data source is referenced by an address corresponding to a location where the data source resides or that this address comprises Uniform Resource Locator (URL). Kirk discloses a query processing method wherein the location where the data source resides comprises a Uniform Resource Locator (URL). (Figure 8, col. 33, lines 10-42; col. 34, lines 21-36). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Spackman with the teaching of Kirk. As suggested by Kirk, one would have been motivated to include this feature to allow a user to more easily navigate through information sources which are most relevant to his/her request. (Kirk: col. 2, lines 55-63)

[claim 41] Spackman teaches the system of claim 38, over a computer network (col. 5, lines 51-57, but does not expressly disclose that the computer network is the Internet. Kirk discloses a system wherein the computer network is the internet. (Figure 8, col. 33,

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lines 10-42; col. 34, lines 21-36) At the time of the applicant's invention it would have been obvious to one of ordinary skill in the art to modify the system of Spackman to use the Internet. One would have been motivated to include this feature to allow the user to have access to computer network with a large distributed body of information. (col. 1, lines 19-22)

[claims 44- 45] Spackman disclose the system of claim 38 as explained in the rejection of claim 38, but does not expressly disclose that the set of queries is used to at least one database on the WWW. Kirk discloses the system of claim 38 wherein the set of queries is used to search at least one database on the World Wide Web to identify a potential list of content links. (Figure 8, col. 33, lines 10-42; col. 34, lines 21-36). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Spackman with the teaching of Kirk. As suggested by Kirk, one would have been motivated to include this feature to provide a computer network with a large distributed body of information. (col. 1, lines 19-22) while allowing a user to more easily navigate through information sources which are most relevant to his/her request. (Kirk: col. 2, lines 55-63)

### ***Response to Arguments***

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RACHEL L. PORTER whose telephone number is (571)272-6775. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, (Christopher) Luke Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. L. P./  
Examiner, Art Unit 3626

/C Luke Gilligan/  
Supervisory Patent Examiner, Art Unit 3626